

DOCKET FILE COPY ORIGINAL

Received & Inspected

MAR 16 2010

FCC Mail Room

March 15, 2010

**VIA OVERNIGHT MAIL**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Re:    Midwestern Telecommunications, Inc. – Petition for Forbearance  
      CC Docket No. ~~96-45~~ WC 09-197

Dear Ms. Dortch:

Please find enclosed one (1) original and four (4) copies of Midwestern Telecommunications, Inc.'s Petition for Forbearance, plus an additional copy of the Petition's first page. Please file-stamp the first page and return it to me in the enclosed self-addressed stamped envelope.

Please contact me if you have any questions. Thank you for your assistance in this matter.

Sincerely,



Ikechuku V. Chinwah  
President  
Midwestern Telecommunications, Inc.

No. of Copies rec'd 0+4  
List ABCDE

**Before the  
Federal Communications Commission  
Washington, DC 20554**

Received & Inspected

MAR 16 2010

FCC Mail Room

In the Matter of

Petition of Midwestern Telecommunications,  
Incorporated, for Forbearance Pursuant to 47  
U.S.C. § 160 from the Own Facilities  
Requirement for Eligible Telecommunications  
Carrier Status

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

CC Docket No. ~~96-45~~

WC 09-197

**PETITION FOR FORBEARANCE OF  
MIDWESTERN TELECOMMUNICATIONS, INC.**

Ikechuku V. Chinwah  
Midwestern Telecommunications, Inc.  
65 E. 16<sup>th</sup> Street  
Suite 30  
Chicago Heights, IL 60411-3879

March 15, 2010

## TABLE OF CONTENTS

SUMMARY.....	ii
I. BACKGROUND.....	2
A.    Midwestern Telecommunications Inc. Overview.....	2
B.    Lifeline Program.....	3
C.    Forbearance Standard.....	4
D.    TracFone and Virgin Mobil’s Petitions for Forbearance.....	5
II. DISCUSSION.....	6
A.    Enforcement of Section 214(e)(1)(A) Is Not Necessary to Ensure That Midwestern Telecommunications, Inc.’s Rates Are Just and Reasonable and Non Discriminatory.....	6
B.    Enforcement of Section 214(e)(1)(A) Is Not Necessary to Protect Consumers.....	8
C.    Forbearance Is in the Public Interest.....	11
III. REQUEST FOR EXPEDITED TREATMENT.....	13
CONCLUSION.....	15

## SUMMARY

Midwestern Telecommunications, Inc. (“MTI”), a reseller of commercial mobile radio services (“CMRS”), seeks forbearance from the requirement of Section 214(e)(1)(A) of the Communications Act of 1934, as amended. (the “Act”) that an eligible telecommunications carrier (“ETC”) must offer service over its own facilities or a combination of its own facilities and resale of another carrier’s services. MTI requests forbearance from the facilities-based requirements under Section 214(e)(1)(A) for ETC designation to receive Lifeline and Link-Up support, consistent with prior grants to similarly situated wireless mobile virtual network operators (“MVNOs”). MTI is concurrently applying for ETC designation solely to receive support under the Low Income program.

MTI’s request meets all three of the requirements in Section 10. First, forbearance is mandated because enforcement of the facilities requirement is not necessary to ensure that MTI’s rates are just, reasonable and non-discriminatory. MTI will compete against numerous other wireless carriers, prepaid and postpaid providers, and other wireless companies that resell wireless services. This competition ensures that MTI will offer consumers high quality services at competitive rates that are just, reasonable and non-discriminatory.

Second, enforcement of the facilities-based requirement for MTI is not necessary to protect consumers. Indeed, grant of the requested forbearance actually will benefit consumers, especially low-income consumers, by offering them alternatives for discounted wireless telecommunications service. Forbearance will further one of the primary goals of the Act by providing low income consumers with expanded access to telecommunications services. Grant of forbearance will not unduly

burden the USF or otherwise reduce the funding available to other ETCs, since MTI is seeking forbearance to allow designation as an ETC solely for participation in the Lifeline program.

Third, forbearance is in the public interest since it will permit MTI to provide discounted telecommunications service to qualifying low-income customers who, after all, are the intended beneficiaries of USF support. Many low-income consumers are unable to fully benefit from the myriad of choices in today's market because of an inability to qualify for long term contracts. MTI's pre-paid offerings will be perfectly suited to provide these consumers with reliable, simple, and affordable wireless services. Grant of forbearance, therefore, will enable MTI to expand the availability of affordable telecommunications services to these consumers, expanding choice and lowering prices. Finally, MTI's request for forbearance is consistent with prior Commission precedent which granted Tracfone Wireless, Inc. ("TracFone"), and Virgin Mobile USA, L.P. ("Virgin Mobile"), resellers of CMRS services, with forbearance from section 214(e)(1)(A) facilities requirement. In its 2005 decision granting forbearance to TracFone, the Commission determined that the facilities-based requirement impedes greater utilization of the USF's low-income program by wireless resellers. The Commission further reasoned that the increased availability of prepaid wireless services would significantly benefit low-income consumers who are especially concerned about high usage charge and long-term contracts. For similar reasons grant of forbearance to MTI from enforcement of section 214(e)(1)(A) will benefit consumers, especially low-income consumers.

**Washington, DC 20554**

)

)

CC 09-197

)

)

)

)

)

)

)

)

# PETITION FOR FORBEARANCE

<sup>1</sup> See 47 U.S.C. § 15 *et seq.*

<sup>2</sup> See 47 U.S.C. § 214(e)(1)(A).

TracFone Wireless, Inc. (“TracFone”) and Virgin Mobile USA L.P. (“Virgin Mobile”) – both also wireless resellers- forebearance from the Own Facilities requirements solely to participate in the USF’s Low Income Program.<sup>3</sup> As discussed below, grant of forbearance will permit MTI to offer discounted telecommunications that will benefit low-income consumers and advance the Commission’s goal of increasing participation in its Low-Income support programs.

## **1. BACKGROUND**

### **A. MTI Overview**

MTI will provide prepaid wireless telecommunications services to consumers by using the Verizon Wireless and Sprint Nextel networks on a wholesale basis to offer nationwide service. Verizon Wireless and Sprint Nextel (Sprint/Verizon) are nationwide carriers that provide wholesale capacity on their wireless network(s) to wireless resellers like MTI. Pursuant to agreements, MTI will obtain from Sprint/Verizon network infrastructure and wireless transmission facilities to allow MTI to operate as a Mobile Virtual Network Operator (“MVNO”), as both TracFone and Virgin Mobile operate. As an MVNO, MTI will purchase wireless service from Sprint/Verizon on a wholesale basis for calling and text messaging, package those services into MTI’s service plans and pricing, and bundle the wireless service with MTI’s handset selection, marketing materials, web interface, and customer service to produce a complete wireless service offering to sell to end-users.

Wireless telecommunications service has evolved from a luxury to an essential

---

<sup>3</sup> *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.C.S. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCCRcd 15095 (2005); *Petition of Virgin Mobile USA, L.P. for Forbearance from and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 24 FCCRcd 3381 (2009) (collectively, the “*Forbearance Orders*” or individually, the “*TracFone Forbearance Order*,” or “*Virgin Mobile Forbearance Order*,” as applicable).

*component of daily life, offering users the ability to access emergency services on* wireless devices and a reliable means of contacting potential employers or social service agencies. By marketing and expanding the availability of wireless services to consumers otherwise unable to afford them, and to those who continue to be ignored by traditional carriers, MTI will effectively expanded access to wireless services. This dovetails perfectly with Congress' intent when creating the universal service program.

## **B. Lifeline Program**

Universal service has been a fundamental component of U.S. telecommunications policy since adoption of the Act over 70 years ago. Section 254 of the Act embodies the Commission's historical commitment to the concept of universal service, particularly for low-income consumers. Section 254(b) sets forth the principles upon which the Commission shall base its policies for the promotion and advancement of universal service. These principles require the Commission to ensure that all consumers, including low-income consumers, have access to telecommunications service at affordable and reasonably comparable rates.<sup>4</sup> The Low-Income program was designed to assist low-income individuals obtain quality telecommunications services through the Lifeline and Link-Up programs.<sup>5</sup> Lifeline support helps defray the monthly costs of telecommunications services for lower-income consumers by providing them with discounts off the monthly cost of telephone service, with additional discounts available for individuals living on tribal lands.<sup>6</sup> Link-Up provides qualifying low-income

---

<sup>4</sup> See 47 U.S.C. § 254. Section 254(b)(3) of the Act requires the Commission to determine whether "consumers in all regions of the Nation, *including low-income consumer* and those in rural, insular, and high cost areas... have access to telecommunications [services] ..." 47 U.S.C. § 254(b)(3) (emphasis added).

<sup>5</sup> 47 C.F.R. §§ 54.401 and 54.411

<sup>6</sup> 47 C.F.R. §§ 54.400 and 54.401



consumers with discounts for initial activation costs.<sup>7</sup>

While generally praising the Low-Income program's success, the Commission has noted that "there is more that we can do to make telephone service affordable for more low-income households," and has specifically targeted the low Lifeline participation rate as one area for improvement.<sup>8</sup> Commission concerns regarding the underutilization of the Lifeline program have existed since its inception.<sup>9</sup> According to most recent estimates issued by the USAC in 2007, only six (6) states had more than 50 percent of eligible low-income households subscribe to the program while almost half the states had a participation rate of less than 20 percent.<sup>10</sup> To increase awareness of the program, the commission has expanded the qualifying criteria and adopted broader outreach guidelines, requiring carriers to better advertise the availability of Lifeline services. Through these actions, the Commission has sought to increase Lifeline participation because "improve[d] participation in the Lifeline program...would increase telephone subscribership and/or make rates more affordable for low-income households."<sup>11</sup>

### **C. Forbearance Standard**

Section 10(a) of the Act provides that the Commission shall forbear from applying any regulation or provision of the Act to any telecommunications carrier if the Commission determines that:

---

<sup>7</sup> 47 C.F.R. §§ 54.411(a)(1)

<sup>8</sup> See *Lifeline and Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCCRcd 8302, 8305 (2004) ("Lifeline Order"). According to the Commission's own statistics, only one-third of households eligible for Lifeline assistance actually participated in the program just a few years ago. *Id.*

<sup>9</sup> See *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order 12 FCCRcd 8776, 8972 (1997) (subsequent history omitted) ("Universal Service First Report and Order").

<sup>10</sup> Information available at <http://www.usac.org/li/about/participation-rate-information.aspx> (last visited March 13, 2010).

<sup>11</sup> See *Lifeline Order*, 19 FCCRcd at 8312 ¶ 13

- (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
- (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
- (3) forbearance from applying such provision or regulation is consistent with the public interest.<sup>12</sup>

Forbearance is mandated when all three factors are satisfied.<sup>13</sup>

#### **D. TracFone and Virgin Mobile Petitions for Forbearance**

The Commission previously has granted two petitions submitted by wireless resellers seeking forbearance from the own facilities requirement in Section 214(e)(1)(A) of the Act.<sup>14</sup> The Commission granted TracFone's request for forbearance from the facilities-based requirement in 2005 and Virgin Mobile's request in 2009. Like MTI, TracFone and Virgin Mobile are MVNOs that provide nationwide prepaid wireless services. The commission considered the statutory goals of universal service in the context of low-income consumers<sup>15</sup> and the statutory purpose behind the own facilities requirement as it relates to carriers qualifying for federal low-income universal service support.<sup>16</sup> After careful examination of the regulatory goals of universal service as applied to low-income consumers, the Commission concluded that each company satisfied the three requirements necessary for a grant of forbearance from the own

---

<sup>12</sup> 47 U.S.C. § 160(a).

<sup>13</sup> *Id.* (the commission "shall forbear").

<sup>14</sup> *See forbearance Orders.*

<sup>15</sup> 47 U.S.C. § 254(b)(3)

<sup>16</sup> 47 U.S.C. § 214(e).

facilities requirement.

Though the Commission had concluded in 1997 that pure resellers could not be designated as ETCs since these entities purchase from facilities-based providers minutes and services at a price that already reflects the universal service support payment<sup>17</sup> the Commission found in the *Forbearance Orders* that these concerns did not apply where a pure wireless reseller was receiving Low-Income support only.<sup>18</sup> The Commission further found that forbearing from the own facilities requirement for these MVNOs would advance the Commission's goal of increasing participation in the Low-Income Program.<sup>19</sup>

## II. DISCUSSION

### A. Enforcement of Section 214(e)(1)(A) Is Not Necessary to Ensure that MTI's Rates Are Just and Reasonable and Non-Discriminatory

Section 10(a)(1) of the Act directs the Commission to determine whether enforcement of the facilities-based requirements of Section 214(e) for a wireless reseller is necessary to ensure that the "charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory."<sup>20</sup> Given the extremely competitive state of the wireless industry,<sup>21</sup> enforcement of Section 214(e)(1)(A) is unnecessary to ensure that MTI's rates are just and reasonable. The

---

<sup>17</sup> *Universal Service First Report and Order*, 12 FCCRcd at 8866 ¶ 161 and 8875 ¶ 178. See also *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 12 FCCRcd 87, 172-73 ¶¶ 160-161 (1996).

<sup>18</sup> See e.g. *Virgin Mobile Forbearance Order*, 24 FCCRcd at 3389 ¶ 18.

<sup>19</sup> See e.g. *Virgin Mobile Forbearance Order*, 24 FCCRcd at 3393 ¶ 30.

<sup>20</sup> 47 U.S.C. § 160(a)(1).

<sup>21</sup> See generally *Thirteenth Annual CMRS Competition Report*, 24 FCC Rcd at 6185 (WTB 2008).

commission concluded in the 2005 that *TracFone Forbearance Order* that the vigorous competition in the wireless market would “ensure that [TracFone’s] rates are just and reasonable and not unjustly or unreasonably discriminatory,”<sup>22</sup> and again in the 2009 *Virgin Mobile Forbearance Order* that “Virgin Mobile, as a reseller, is by definition subject to competition and that this competition ensures that’s its rates are just and reasonable and not unjustly or unreasonably discriminatory.”<sup>23</sup> The commission noted in the *Forbearance Orders* that competition spurs innovation among carriers in their offerings, expanding the choice of available products for eligible consumers.<sup>24</sup>

MTI will compete against numerous other wireless carriers including prepaid and postpaid providers, nationwide carriers, facilities-based providers, and MVNOs that resell wireless services. Wireless companies continually differentiate their services and rates from the many other wireless providers with whom they compete in an effort to gain market share. As a relatively new and small wireless company lacking market power, MTI is attempting to penetrate the market by offering competitive rates and superior customer service with no credit check or long term contract. Since customers may switch to other wireless providers at any time, MTI is, by definition, subject to competition in the diverse wireless marketplace, which effectively precludes it from raising its rates to an unreasonable or discriminatory level. Thus, consistent with its findings in the *Forbearance Orders*, the commission should find that the existence of this robust competition will ensure that enforcement of Section 214(e)(1)(A) is unnecessary to ensure that MTI provides its services at rates that are just and reasonable and not

---

<sup>22</sup> *Tracfone Forbearance Order*, 20 FCC Rcd at 15101 ¶ 14.

<sup>23</sup> See, e.g. *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389 ¶ 19.

<sup>24</sup> *Tracfone Forbearance Order*, 20 FCC Rcd at 15101 ¶ 13; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389 ¶ 19.

discriminatory.

**B. Enforcement of Section 214(e)(1)(A) Is Not Necessary to Protect Consumers**

Section 10(e)(1)(A) of the Act requires a finding that application of the facilities-based requirement to MTI is not necessary to protect consumers. MTI's request for forbearance must be examined in light of the Act's primary goal of providing affordable and comparable telecommunications services to all consumers-particularly low-income consumers. Given this context, along with the Commissions prior findings in the *Forbearance Orders*, granting forbearance to MTI actually would benefit consumers, especially low income consumers eligible to participate in the Low-Income program. The Commission also noted in the *Virgin Mobile Forbearance Order* that the prepaid feature may be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone but who are concerned about usage charges or long-term contracts.<sup>25</sup> Forbearance will also promote competition and increase the pressures on other carriers to target low-income consumers with services offerings tailored to their needs greatly benefiting this underserved market segment. Consumers will similarly benefit from the grant of MTI's petition, with the added benefit of the choice of an additional competitor for their Lifeline service, which may provide pricing, features, or retail outlets to make Lifeline even more accessible to more eligible consumers.

MTI's request will not unduly burden the USF or otherwise reduce the amount of funding available to other ETCs. In response to opponents' comments and concerns about the funding available to other ETCs, the Commission that granting TracFone and Virgin Mobile ETC designation for Lifeline-only services would not "significantly

---

<sup>25</sup> *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390 ¶ 21.

burden the universal service fund and thus negatively affect consumers through increased pass-through charges of the carrier's contribution obligations."<sup>26</sup>

The Commission has recognized the potential growth of the USF associated with High-cost support distributed to competitive ETCs.<sup>27</sup> However, like TracFone and Virgin Mobile, MTI will only seek eligibility for the Low Income program, not the High-Cost program. In 2007, support from the Low Income program accounted for only 11.8 percent of the distribution of the total universal service fund, whereas High-Cost support accounted for 61.06 percent.<sup>28</sup> Thus, the Commission concluded that "any increase in the size of the fund would be minimal and is outweighed by the benefit of increasing eligible participation in the Lifeline program, furthering the statutory goal of providing access to low-income consumers."<sup>29</sup> If MTI is ultimately granted ETC designation to receive funding under the Low Income program, USF costs or expenditures will not increase in any meaningful way, and instead many low-income customers who do not currently participate in the Lifeline and Link-Up programs will benefit. Moreover, granting MTI's Forbearance Petition will not have any effect on the number of persons eligible for Lifeline and Link-Up support

---

<sup>26</sup> *Tracfone Forbearance Order*, 20 FCC Rcd at 15101 ¶ 17; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3391-92 ¶ 24.

<sup>27</sup> *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as and Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC docket no. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1577 ¶ 31 (2004); *Federal-State joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as and Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC docket no. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 6422, 6433-4 ¶ 25 (2004); *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, WC Docket No. 05-337, CC Docket No. 96-45, Order, 23 FCC Rcd 8834, 8837-38 ¶¶ 6-7 (2008).

<sup>28</sup> *Trends in Telephone Service*, Wireline Competition Bureau, Federal Communications Commission, Table 19.1 and Chart 19.1 (Aug. 2008). As of March 2007, the average monthly federal support per non-tribal Lifeline customer was \$8.57. *Id.* at Table 19.7. See 47 C.F.R. § 54.403. Tribal customers are eligible for up to an additional \$25.00 per month in Lifeline support. 47 C.F.R. § 4.403(a)(4).

<sup>29</sup> *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3391-92 ¶ 24

Finally, MTI will comply with all the conditions imposed upon TracFone and Virgin Mobile to ensure the protection of consumers and the integrity of the fund. Specifically, subject to any subsequent FCC modifications to the conditions listed below, MTI will: (a) provide its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes; (b) provide its Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, non-compliant handsets of existing customers who obtain Lifeline-supported services; (c) comply with conditions (a) and (b) as of the date it provides Lifeline service; (d) obtain a certification from each Public Safety Answering Point (PSAP) where MTI will provide Lifeline service confirming that MTI provides its customers with 911 and E911 access (or self-certify compliance if, within 90 days of MTI request, a PSAP has not provided the certification and the PSAP has not made an affirmative finding that MTI does not provide its customers with access to 911 and E911 service within the PSAP's service area;<sup>30</sup> (e) require its customers to self-certify at the time of service activation that they are the head of household and receive Lifeline-supported service only from MTI and verify annually thereafter through use of a statistically valid sample that its customers remain the head of household and are not receiving other Lifeline service;<sup>31</sup> and (f)

---

<sup>30</sup> *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc.* CC Docket No. 96-45, Order, 24 FCC Rcd 3375 (2009).

<sup>31</sup> MTI's proposal to use a statistically valid sample of customers for annual re-confirmation that customers are head of household and not receiving other Lifeline service is consistent with TracFone's recent request to modify its forbearance condition. *See Comment Sought on TracFone Request for Modification of Condition Adopted in Commission Order Granting TracFone Forbearance from Eligible Telecommunications Carrier Requirements*, CC Docket No. 96-45, Public Notice, DA 09-1272 (rel. June 5, 2009). MTI concurs with TracFone that individual annual verification would be exceedingly burdensome. In the event that the Commission denies TracFone's modification request, however, MTI will accede to the terms of TracFone's original condition requiring individual annual re-certification.

establish safeguards to prevent its customers from receiving multiple MTI Lifeline subsidies at the same address.<sup>32</sup>

### **C. Forbearance Is in the Public Interest**

Finally, Section 10(a)(3) requires the Commission to determine whether enforcement of the own facilities requirement for a wireless reseller that seeks ETC designation for Lifeline/Link-Up support is in the public interest.<sup>33</sup> As was previously stated, Section 254(b) of the Act provides for competitive rates and higher-quality telecommunications services for all consumers and encourages the rapid deployment of new telecommunications services regardless of geographic location or income.

The Commission stated in the *Forbearance Orders* that the statutory goal of providing access to affordable telecommunications services to low-income consumers outweighs the requirement that a reseller maintains its own facilities, where the wireless reseller will be eligible for Lifeline support only.<sup>34</sup> Thus, the Commission should also find that requiring MTI, as a wireless reseller, to own facilities does not further the statutory goals of the Low Income program, which is to provide support to qualifying low-income consumers, regardless of where they live.

The Lifeline/Link-Up program is designed to reduce the monthly cost of telecommunications service for qualifying low-income consumers.<sup>35</sup> Presently only about one-third of households eligible for low-income assistance actually subscribe to the program.<sup>36</sup> According to the most recent estimates issued by the USAC in 2007, only six

---

<sup>32</sup> *Tracfone Forbearance Order*, 20 FCC Rcd at 15098 ¶ 6; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3386-87 ¶ 12.

<sup>33</sup> 47 U.S.C. § 160.

<sup>34</sup> *Tracfone Forbearance Order*, 20 FCC Rcd at 15104-5 ¶ 23; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 29.

<sup>35</sup> 47 C.F.R. §§ 54.401 and 54.411.

<sup>36</sup> *Lifeline Order*, 19 FCC Rcd at 8305 ¶ 1 and Appendix K at Table 1.B.



(6) states had more than 50 percent of eligible low-income households subscribe to the program, while almost half the states had a participation rate of less than 20 percent.<sup>37</sup> As noted in the *Forbearance Orders*, the Commission expanded eligibility criteria and outreach guidelines for federal default states in an effort to increase participation.<sup>38</sup> In granting forbearance to Virgin Mobile, the Commission stated: "We believe even more can be done to further expand participation by those subscribers that qualify and thus further the statutory goal of Section 254(b)."<sup>39</sup>

The Commission concluded that enforcing the own facilities requirement would impede[] greater utilization of Lifeline-supported services provided by a pure wireless reseller.<sup>40</sup> MTI, like TracFone and Virgin Mobile, offers consumers a variety of prepaid wireless services that would be beneficial to low-income consumers "who need the mobility, security, and convenience of a wireless phone but who are concerned about usage charges or long-term contracts."<sup>41</sup> MTI will offer all of the same benefits, plus added advantages to low-income consumers from its pricing plans and special attention to customer service. Granting MTI forbearance from the Section 214(e)(1)(A) own facilities requirement will further the Commission's goal of expanding the availability of affordable telecommunications services to these consumers and utilization of the Low Income support program, and also promoting competition among providers of

---

<sup>37</sup> Information available at <http://www.usac.org/li/about/participation-rate-information.aspx> (last visited March 13, 2010).

<sup>38</sup> *Tracfone Forbearance Order*, 20 FCC Rcd at 15105 ¶ 24; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 30.

<sup>39</sup> *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 30.

<sup>40</sup> *Tracfone Forbearance Order*, 20 FCC Rcd at 15100 ¶ 9; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3391-2 ¶ 30.

<sup>41</sup> *Tracfone Forbearance Order*, 20 FCC Rcd at 15101 ¶ 15; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390 ¶ 21.

telecommunications services, leading to lower prices and increased choices for low-income consumers.

### **III. REQUEST FOR EXPEDITED TREATMENT**

MTI respectfully requests that the Commission expedite its processing of this Petition for forbearance. Although there has been an increase in the number of households with telephone service, the Commission has noted that more improvements are needed to further expand the participation rate in the Low-Income program.<sup>42</sup> The Commission has highlighted that the participation rate in this program has been low since inception.<sup>43</sup> In an effort to increase participation in the Low-Income program, the Commission has expanded the qualifying criteria several times and adopted broader outreach guidelines to raise awareness of the programs among low-income consumers so that more low-income households will benefit by obtaining telecommunications service at an affordable rate.<sup>44</sup> Even though Virgin Mobile was recently granted ETC designation to provide Lifeline program, the Commission nevertheless emphasized that "more can be done to further expand participation by those subscribers that qualify [.]"<sup>45</sup> If granted limited ETC designation, MTI intends to provide wireless services to low-income consumers who stand to benefit from the Low-Income program, and expedited treatment will allow it to do so sooner.

Expedited treatment also is justified given that MTI is similarly situated to TracFone and Virgin Mobile, and the Commission already determined that they satisfied the forbearance conditions. Reaching the same conclusion about MTI thus should require minimal Commission resources.

---

<sup>42</sup> *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3391-2 ¶ 24.

<sup>43</sup> *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 30. *Universal Service First Report and Order*, 12 FCC Rcd at 88785 ¶ 449.

<sup>44</sup> *Lifeline Order*, 19 FCC Rcd at 8305 ¶ 1 and Appendix K at Table 1.B.

<sup>45</sup> *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3393 ¶ 30.

Moreover, the recent economic downturn indicates that more and more eligible consumers will significantly benefit from the Lifeline and Link-Up programs once they become aware of this program.<sup>46</sup> The U.S. Department of Labor recently reported that unemployment has soared above 15% in some areas.<sup>47</sup> Many consumers will be unable to pay for, and therefore will lose, their current phone services, and may not get the benefit of any telecommunication service without the option of a wireless carrier that can offer an affordable, cost-effective plan at a discounted rate. We therefore urge the Commission to act promptly so that MTI may immediately reach out to these consumers who will benefit under the Lifeline program.

---

<sup>46</sup> See, e.g., "Prepaid Wireless Service Could Spur Price War," Marguerite Reardon, CNN (May 6, 2009), available at <http://www.cnn.com/2009/TECH/05/06/prepaid.wireless/index.html> ("The prepaid cell phone market has finally hit the U.S. in a big way as economically strapped consumers flock to inexpensive pay-as-you-go services.").


<sup>47</sup> United States Department of Labor, Metropolitan Area Employment and Unemployment Summary (June 30, 2009), available at <http://www.bls.gov/news.release/metro.nrO.html>.

## CONCLUSION

MTI respectfully requests that the Commission forbear from applying the own facilities requirement of Section 214(e)(1)(A) to its request for designation as an ETC.

Respectfully submitted,

**Midwestern Telecommunications, Inc.**

By:   
Ikechuku V. Chinwah  
President  
Midwestern Telecommunications  
65 E. 16<sup>th</sup> Street  
Suite 300  
Chicago Heights, IL 60411